

LOCAL RULES
OF
THE CARROLL CIRCUIT COURT
AND
THE SUPERIOR COURT OF CARROLL COUNTY

as amended May 1, 2002

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LOCAL COURT RULES FOR CARROLL COUNTY, INDIANA

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RULE 1

SCOPE OF RULES

Pursuant to Trial Rule 81 of the Indiana Rules of Court, and except as otherwise provided, these rules govern the procedure and practice of the Carroll Circuit Court and the Superior Court of Carroll County, including the general jurisdiction docket, the small claims, criminal, and probate, estate and guardianship dockets.

The rules with no special designation shall govern all suits of a civil nature including small claims, except as otherwise provided in the rules designated "Small Claims" or other Indiana rules governing small claims.

These local rules shall be read and applied in a manner not inconsistent with the Indiana Rules of Court.

RULE 2

JURISDICTION

A. CARROLL CIRCUIT COURT. The Carroll Circuit Court shall have exclusive jurisdiction of the following matters:

- (1) Probate and guardianships;
- (2) Adoptions;
- (3) Class C or greater felonies and murder; and
- (4) Dissolutions and child custody.

B. CARROLL SUPERIOR COURT. The Carroll Superior Court shall have exclusive jurisdiction of the following matters:

- (1) Small Claims;
- (2) Infractions;
- (3) Juvenile matters other than adoption;
- (4) Misdemeanors; and
- (5) Class D felonies, provided, however, that the State of Indiana may file Class D felonies in the Carroll Circuit Court in those cases in which the Judge of the Carroll Superior Court would be required to disqualify himself because he represented the State of Indiana in the prosecution of an underlying offense or prior offenses used to enhance the sentence.

C. CONCURRENT JURISDICTION. The courts shall have concurrent jurisdiction on all other matters.

RULE 3

TRANSFER OF ACTION

It may, from time to time, be expedient for the Judges of the Carroll Circuit and Superior Courts to transfer cases between those courts. This shall be done with the consent of the two judges involved in the transfers, pursuant to I.C. 33-5-9.5-9. If such transfer is

consummated, the time for taking a change of venue from the judge shall be extended for a period of 10 days from the service of notice of such transfer or until such period expires pursuant to T.R. 76 or other applicable law. Change of venue from the county shall not be affected.

RULE 4

JUDGES SITTING IN EITHER COURT

It may, from time to time, be expedient for the Judges of the Carroll Circuit and Superior Courts to hear cases pending in the other Court. Pursuant to I.C. 35-5-9.5-10, both judges must agree.

Pursuant to I.C. 33-5-9.5-10, the Judge of the Carroll Circuit Court authorizes the Judge of the Carroll Superior Court to sit as Judge of the Carroll Circuit Court, at any time, in any case.

Pursuant to I.C. 33-5-9.5-10, the Judge of the Carroll Superior Court authorizes the Judge of the Carroll Circuit Court to sit as Judge of the Carroll Superior Court, at any time, in any case.

This authority shall remain in force until further order.

RULE 5

APPEARANCE AND WITHDRAWAL

A. APPEARANCE. An appearance by counsel or by a party, appearing without an attorney shall be made in writing and filed with either the Clerk or the Court Reporter. It shall contain the appearing person's name, mailing address, office address, and phone number. A copy must be served on other counsel or parties. The clerk shall note the appearance on the Chronological Case Summary.

B. WITHDRAWAL. All withdrawals of appearance shall be in writing and by leave of Court. Permission to withdraw shall be given only after the withdrawing attorney has given his client 10 days written notice of his intention to withdraw and has filed a copy of the notice with the court. In no event will the court grant a request to withdraw an appearance unless the same has been filed with the Court at least 10 days prior to trial date, except for good cause. A withdrawal of appearance when accompanied by the appearance of other counsel shall constitute a waiver of this requirement. All withdrawals of appearance shall comply fully with the provisions of Rules of Professional Conduct, Rule 1.16.

RULE 6

PREPARATION OF PLEADINGS, MOTIONS AND OTHER PAPERS

A. **PRODUCTION.** Pleadings, motions, and other papers shall be on white paper. Effective January 1, 1992, all pleadings, copies, motions and documents filed with the court, with the exception of exhibits and existing wills, shall be prepared on 8 1/2" x 11" size paper. Through December 31, 1991, such papers and records will be accepted on either 8 1/2 " x 11" or 8 1/2" x 14" size paper with the exception of orders which shall be on 8 1/2" x 11" paper after July 1, 1991. The lines shall be double spaced except for quotations, which shall be indented and single spaced.

B. **FORMS AND HANDWRITTEN PLEADINGS.** Printed or handwritten pleadings will be accepted only if neat and legible and not altered by strike-overs or erasures.

C. **TITLES.** Titles on all pleadings shall delineate each topic included in the pleading, e.g. where a pleading contains an Answer, a Motion to Strike or Dismiss, or a Jury Request each shall be set forth in the title.

RULE 7

FILINGS

A. **PLEADINGS.** The entry of appearance and the filing of pleadings or other matters not requiring immediate Court action shall be filed with the Clerk. The Judge may, however, permit papers to be filed with him in which event he shall note thereon the filing date.

B. **CHRONOLOGICAL CASE SUMMARY ENTRIES.** Written pleadings presented for filing may be accompanied by a proposed entry on the Chronological Case Summary which shall contain the title and number of the case, the date and exact entry to appear on the Chronological Case Summary. The proposed entry shall be signed by counsel.

C. **COPIES TO SPECIAL JUDGES.** When a special judge is selected, copies of all pleadings, motions, or briefs filed shall be mailed or delivered to the private office of the Special Judge with certificate of forwarding same made a part of the original papers.

RULE 8

PROPOSED ORDERS

Prior to entry by the Court of orders granting motions or application or setting hearing dates, the moving party or applicant shall, unless the Court directs otherwise, furnish the Court with proposed orders in the following matters:

- (1) for enlargement of time
- (2) for continuance
- (3) for default judgment
- (4) to compel discovery

- (5) of dismissal
- (6) for appointment of receiver
- (7) for appointment of guardian
- (8) for restraining order, temporary or permanent injunction
- (9) for immediate possession of real estate
- (10) for immediate possession of personal property
- (11) for findings of fact and conclusions of law
- (12) for foreclosure of a mortgage or other lien
- (13) setting hearing date
- (14) and such other orders, judgments, or decrees as the Court may direct.

This rule does not apply to judgments on general verdicts of the jury or upon a decision announced by the Court.

All proposed orders left with the Clerk or Court Reporter when the Judge is not available shall be submitted in sufficient number so that distribution may be made to all affected parties.

RULE 9

MOTIONS

A. ORAL ARGUMENTS. The Court shall not hear oral arguments on motions unless required by the Indiana Rules of Procedure, requested by a party and allowed by the Court in its discretion, or at the request of the Court.

B. BRIEFS AND MEMORANDA REGARDING MOTIONS. If a party desires to file a brief or memorandum in support of any motion, such brief or memoranda shall accompany or be filed simultaneously with motion, and a copy served on the adverse party. If the adverse party desires to file a brief or memorandum, the adverse party shall file it within 10 days of service of the movant's brief or memorandum.

C. ENLARGEMENT OF TIME. An initial written motion for enlargement of time pursuant to Trial Rule 6(B)(1) to respond to a claim shall be automatically allowed for an additional 20 days from the original due date without a written order of the Court except in matters denominated in the pleadings as emergency in nature. Any motion filed pursuant to this rule shall state the date when such response is due and the date to which time is enlarged. The action must be filed on or before the original due date or this rule is inapplicable.

RULE 10

CONTINUANCES

A motion for a continuance, unless made during the hearing of the cause, shall be for cause, in writing and verified. A motion for continuance must be filed as soon after the cause for continuance is discovered by the moving party. The attorney's signature on a request for a continuance is considered a certification that the client has been notified of the request.

RULE 11

DISCOVERY

A. **TIME LIMIT.** In all cases, discovery shall be completed within 6 months after the case is at issue unless otherwise ordered by the Court. For good cause shown, the physical or mental examination of a party, as provided for in Trial Rule 35, Indiana Rules of Procedure, may be ordered at any time prior to trial.

B. **EXTENSION OF TIME.** For good cause shown and prior to the expiration of the time within which discovery is required to be completed, time may be extended for completion of discovery. Motions and stipulations for additional time for completion of discovery must set forth reasons justifying the additional time. Stipulations extending the discovery period must be approved by the Court.

C. **INTERROGATORIES.** Interrogatories shall be tailored specifically to each cause in which they are filed, and shall be consecutively numbered to facilitate response. A party serving written interrogatories pursuant to the Indiana Rules of Procedure shall provide two (2) copies to each party required to answer the same. The interrogatories shall contain, after each interrogatory, a reasonable amount of space for entry of the response or objection. The answering party may attach an addendum to the copies if the space provided is found to be inadequate. In any event, answers or objections to interrogatories shall include the interrogatory being answered or objected to immediately preceding the answer or objection.

D. **DISCOVERY DISPUTES.** The Court shall not hear motions seeking to compel discovery, for sanctions, or seeking protection against discovery, under Trial Rule 26 through Trial Rule 37 unless moving counsel shall first certify in writing, as a part of the motion, that after a personal meeting or telephone conference and sincere attempts to resolve differences, counsel remain unable to agree. The certification shall recite the date, time and place of the meeting and the names of counsel participating. If counsel for a party advises the court in writing that opposing counsel has refused or delayed a meeting to resolve

discovery disputes contemplated by this paragraph, the court shall take the appropriate action.

RULE 12

VOIR DIRE

A. EXAMINATION OF PANEL AS A WHOLE BY COURT. Unless otherwise directed, the entire panel of prospective jurors shall be sworn by the Court and shall remain in the courtroom throughout the entire voir dire examination. The Court will conduct its own voir dire examination of the entire panel, with a view primarily of establishing a basis for challenge for cause.

B. JURY QUESTIONNAIRES. Jury questionnaires shall be on file with the Bailiff and copies shall be made available to counsel, but it shall be the responsibility of counsel to obtain such copies from the Bailiff and to review the same before voir dire begins.

C. CHALLENGES FOR CAUSE. Any challenge for cause must be made when the cause becomes known.

D. SUPPLEMENTAL EXAMINATION BY COUNSEL. Following examination by the Court, counsel shall be permitted to supplement the Court's examination on subjects not expressly covered by the Court or the jury questionnaires. Questions shall be, so far as possible, directed to the entire panel seated in the jury box. The side with the burden of proof shall proceed first with such examination, and the opposing side will then proceed. The initial examination shall be subject to a 20 minute time limit for each side.

E. PEREMPTORY CHALLENGES. After each side has completed its supplementary examination, peremptory challenges must be then made. Such challenges will be made in writing and submitted to the Court. After submission to the Court, the Court will then advise the prospective jurors so challenged.

F. ADDITIONAL SUPPLEMENTAL EXAMINATION. Whenever peremptory challenges are made, replacement jurors will then be seated, and each side shall have an opportunity for a supplemental examination as provided by subparagraph D. with peremptory challenges made at the conclusions of such inquiry in writing in the same manner as set forth in subparagraph E. However, the supplemental examination shall be limited to 10 minutes for each side.

G. PASSING OF JUROR TWICE. No juror who has been passed twice may be re-examined or peremptorily challenged except upon good cause shown, and the passing of any juror twice shall be deemed a waiver of the right to peremptorily challenge the same unless good cause is shown.

H. PEREMPTORY CHALLENGES OF SAME JUROR. A peremptory challenge of the same juror by both sides shall count against the number of challenges for each side.

I. LIMITATION ON VOIR DIRE BY COUNSEL. No voir dire examination shall include, unless otherwise directed by the Court: (1) questions previously asked by the Court or counsel and answered; (2) questions based on hypothetical statements of fact which are substantially similar or related to the facts of the case being tried; and (3) questions answered in the jury questionnaires.

RULE 13

JURY INSTRUCTIONS

All requests for instructions tendered in accordance with Trial Rule 51 shall be in writing with citations to applicable authority. Reasonably anticipated final instructions shall be exchanged and filed with the court not later than the commencement of trial. Proposed preliminary instructions shall be exchanged and filed not later than three business days prior to the beginning of the trial. The plaintiff shall prepare and exchange with opposing counsel a proposed preliminary instruction on issues not later than three days prior to trial. The court shall in the interest of justice permit the tender of additional instructions during the trial on matters which could not have been reasonably anticipated in advance of trial.

RULE 14

CHANGE OF VENUE

When a change of venue from the county is granted, all accrued costs and the fee for transfer of venue must be paid to the Clerk by the moving party within 10 days after the order transferring the venue is entered. In the absence of such payment, the movant shall be deemed to have abandoned the motion, the Clerk shall not perfect the change and the cause shall be restored to the docket.

RULE 15

PRE-TRIAL CONFERENCES

A. WHEN. There shall be a pre-trial conference in every civil case scheduled for jury trial. In other cases, upon motion of any party or upon motion of the Court, a pre-trial conference may be held.

B. CERTIFICATE OF READINESS. Any party may request that a pre-trial conference be held or that the cause be set for trial if no pre-trial conference is required by filing a Certificate of Readiness certifying to the Court that the cause is at issue; that discovery is completed or that discovery will be completed by the time of the pretrial

conference; that the cause is ready to be assigned for pretrial conference or that a pretrial conference should be waived and the matter assigned for trial. If any party should oppose any matter contained in the Certificate of Readiness, he shall, within 10 days following receipt of a copy of the Certificate of Readiness, file with the court, with service to all counsel of record, his verified objections, citing in particular why the cause is not ready for pretrial conference and trial. The court may summarily rule on any verified objections or upon written request set the matter for hearing. If no objections are filed within the time prescribed or allowed, the court will set the cause for pretrial conference. Following a pretrial conference and entry of a pretrial order in a cause, if required, the cause shall be placed on the Court's calendar for trial.

C. PRE-PRETRIAL CONFERENCE. At least 10 days prior to the date set for pretrial conference, the attorneys for all parties shall meet and confer for the purposes set forth in Trial Rule 16(C).

D. PRE-TRIAL ORDER. Following the pre-trial conference, a pre-trial order shall be prepared, signed and filed as directed by the Court at the pre-trial conference. When signed by the Court and entered of record, the pre-trial order shall control the course of trial, and the pleadings will be deemed merged therein.

RULE 16

TRIAL SETTINGS

Unless otherwise ordered by the Court at the pre-trial conference, when more than one case is set for trial on a given date, the case set second shall be required to stand for trial if counsel is given 48 hours notice, excluding Saturday and Sunday, that the case first set will not be heard, provided, however, that second settings on Monday shall stand trial if counsel are given notice that the case first set will not be heard by noon on the preceding Thursday.

RULE 17

DOMESTIC RELATIONS

A. NOTICE TO PARENT IN DISSOLUTION. In all uncontested dissolution matters involving custody and support of children or the determination of real property interest or both, the petitioner's attorney or the petitioner, if appearing pro se, shall give notice of the time and place of the trial by subpoena, notice of hearing, or letter served upon the respondent in accordance with Trial Rule 4 at least 7 days prior to the trial date, and file a copy of the notice with the court on or before the trial date.

B. SUPPORT GUIDELINES. All support determinations shall be made in

accordance with the Indiana Child Support Guidelines.

C. WORKSHEET - CHILD SUPPORT OBLIGATION. A copy of the worksheet provided for in the Indiana Child Support Guidelines shall be submitted to the Court in each case in which the Court is asked to determine support, including cases in which agreed orders are submitted, and the worksheets shall be signed by both parties under penalties of perjury.

D. SCHEDULE OF ASSETS AND LIABILITIES. A schedule of assets and liabilities, together with copies of any and all inventories and appraisals, shall be submitted to the court three days prior to the date of trial.

RULE 18

EXHIBITS

Exhibits not marked at pre-trial conference shall be presented to the reporter for marking prior to the beginning of the trial or during recesses to ensure that the trial is not delayed for the marking of exhibits.

After being marked for identification and offered in evidence, all exhibits and proposed exhibits shall be placed in the custody of the reporter who is responsible for their safekeeping, unless otherwise ordered by the trial judge.

Any model, diagram, exhibit or proposed exhibit shall be returned to the party offering it upon request to the reporter after the time for appeal has elapsed or the possibility of further appeal is exhausted, unless the court orders otherwise.

After a case has been decided and no appeal has been taken, or after all appeals are completed, if there has been no request for the return of such items within 90 days of final judgment, they may be disposed of by the reporter as the court may direct.

RULE 19

DOCUMENTS, FILES, AND DEPOSITIONS

A. REMOVAL OF ORIGINAL PLEADINGS, PAPERS, AND RECORDS. No person shall withdraw any original pleading, paper, or record from the custody of the clerk or other officer of this court except upon the order of the judge of the court after giving proper receipt.

B. OPENING OF DEPOSITIONS. Unless otherwise ordered by the court, the clerk, at any time after a deposition is filed, shall open such deposition upon request of the judge, or a party or his attorney. The clerk shall first endorse on the back, at the time of opening, the name of the person at whose instance the deposition is opened and the date of opening.

RULE 20

LIBRARY BOOKS

The books in the law library shall be in the custody of the Judges of the Carroll Circuit Court and the Carroll Superior Court. No person shall remove any book from the law library until he shall sign out the book with the court personnel. Any book removed from the library shall not be retained more than ten consecutive days.

RULE 21

APPELLATE RECORD

When an appeal is initiated by the filing of a praecipe for the record pursuant to Appellate Rule 2, and a transcript of all or any part of the evidence is sought for the record on appeal, counsel filing the praecipe shall deliver, contemporaneously and personally, a copy of the praecipe to the Court Reporter, advise the Court Reporter of the deadline for preparation of the records, and then make arrangements to pay the Court Reporter for her preparation of the transcript.

RULE 22

TRANSCRIPTS

Persons requesting transcripts shall make a deposit with the clerk of Carroll County sufficient to cover the cost of the transcript at the time of the request unless other arrangements are made with the Court Reporter who is preparing the transcript.

RULE 23

FILING BY FAX

A. FILINGS. Pleadings, motions, and other papers may be sent to the Clerk of Carroll County by electronic facsimile transmission for filing in any case, provided:

1. Such matter does not exceed ten pages, including the cover sheet;
2. The sending party creates at the time of transmission a machine generated log for such transmission; and
3. The original document and the transmission log are maintained by the sending party for the duration of the litigation.

B. TIME OF FILING. During normal business hours of the Courts, the time of filing shall be the time the duplicate document is received in the office of the Clerk of Carroll County. Duplicate documents received at all other times shall be filed as of the next business day.

C. COVER SHEET. Any document sent to the Clerk of Carroll County by electronic facsimile transmission shall be accompanied by a cover sheet which states the title of the

document, case number, number of pages, identity and voice telephone number of the sending party and instructions for filing. The cover sheet shall contain the signature of the attorney or party, pro se, authorizing the filing.

D. FAX NUMBER DESIGNATION. The fax number for filing is **(317) 564-6907**.

E. DEFINITIONS. For purposes of this rule, the following definitions shall apply:

1. **Cover Sheet** means a description initial page that accompanies an electronic facsimile transmission;

2. **Electronic Facsimile Transmission**, commonly referred to as "FAX," means a method of transmitting and receiving information in paper medium over telephone lines or other forms of electronic transmission;

3. **Original Document** means the initially prepared written document or any counterpart intended to have the same effect by the creator; and

4. **Duplicate Document** means a written counterpart of the original produced by the same impression as the original or from the same matrix or by digitized electronic transmission, readable by sight, which accurately reproduces the original.

RULE 24

APPOINTMENT OF SPECIAL JUDGES

JUVENILE CASES. When the appointment of a special judge in a juvenile case is necessary pursuant to Trial Rule 79(H), then a special judge shall be appointed from the following list of judges:

- 1) Linley E. Pearson, Judge of the Clinton Circuit Court
- 2) Robert W. Thacker, Judge of the White Circuit Court
- 3) Loretta H. Rush, Judge of the Tippecanoe Superior Court #3
- 4) Thomas K. Milligan, Judge of the Montgomery Circuit Court
- 5) Susan Orr Henderson, Judge of the Fountain Circuit Court
- 6) Robert M. Hall, Judge of the Warren Circuit Court
- 7) Rex W. Kepner, Judge of the Benton Circuit Court

ALL OTHER CIVIL CASES. In all other civil cases, when the appointment of a special judge is necessary pursuant to Trial Rule 79(H), then a special judge shall be appointed from the following list of judges:¹

The Carroll Circuit Court

- 1) Linley E. Pearson, Judge of the Clinton Circuit Court

¹ The judges listed are in Carroll County or counties contiguous to Carroll County in the 4th Administrative District and have consented to exchange services with the judges of Carroll County.

- 2) Kathy R. Smith, Judge of the Clinton Superior Court
- 3) Robert W. Thacker, Judge of the White Circuit Court
- 4) Robert B. Mrzlack, Judge of the White Superior Court
- 5) Jeffrey R. Smith, Judge of the Carroll Superior Court

The Carroll Superior Court

- 1) Linley E. Pearson, Judge of the Clinton Circuit Court
- 2) Kathy R. Smith, Judge of the Clinton Superior Court
- 3) Robert W. Thacker, Judge of the White Circuit Court
- 4) Robert B. Mrzlack, Judge of the White Superior Court
- 5) Joseph W. Carey, Judge of the Carroll Circuit Court

The assignment of judges shall be made in consecutive numerical order, i.e. the first judge listed will be assigned to the first case requiring a special judge; the second judge listed will be assigned the next case requiring a special judge; etc. The next assignment following the assignment of the last judge listed will be the first judge listed, and the selection process will then be repeated.

RULE 25

COURT REPORTERS, TRANSCRIPTS

Section One. Definitions. The following definitions shall apply under this local rule:

- (1) A *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
- (3) *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (5) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- (7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked

but hours not in excess of forty (40) hours per work week

(8) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week

(9) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday and Thursday.

(10) *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Carroll County.

(11) *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(12) *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(13) *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

Section Two. Salaries, Preparation of Transcripts, and Per Page Fees.

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours, ie. monetary compensation or compensatory time off regular work hours.

(2) The court reporter shall not prepare transcripts during regular work hours.

(3) Effective May 31, 2002 the maximum per page fee a court reporter may charge for the preparation of a county or state indigent transcript shall be \$3.00; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts. This paragraph is to be retroactive to its effective date.

(4) Effective June 1, 2003 the maximum per page fee a court reporter may charge for the preparation of a county or state indigent transcript shall be \$3.50; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

(5) Effective May 31, 2002 the maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$3.00 unless the transcript is required within 2 work days, then a maximum per page fee shall be \$5.00. This paragraph is to be retroactive to its effective date.

(6) Effective June 1, 2003 the maximum per page fee a court reporter may charge for the

preparation of a private transcript shall be \$3.50 unless the transcript is required within 2 work days, then a maximum per page fee shall be \$5.00.

(7) An additional labor charge based upon the hourly rate paid for services as court reporter may be charged for the time spent binding the transcripts and exhibit binders.

(8) A minimum fee of \$35.00 may be charged per transcript.

(9) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

(10) The court reporter **shall not** engage in private practice through the recording of a deposition and/or preparing of a deposition transcript.

(11) The court reporter **shall not** use court typewriters or word processing equipment for the preparation of private transcripts. A copy of transcripts may be made using the court's copying equipment provided that a copy of the transcript is deposited with the court.

CRIMINAL RULE 1

INITIAL HEARING

Any defendant held in custody shall be brought before the Court for initial hearing within 24 hours following his arrest, provided, however, if the arrest occurred on Friday afternoon, Saturday, Sunday, or a holiday, then the defendant shall be brought before the Court on the next business day. This rule shall not prohibit the release of any defendant on bond.

CRIMINAL RULE 2

WITHDRAWAL OF APPEARANCE

In criminal cases, withdrawal of representation of a defendant may not be granted except upon hearing conducted in open court on record in the presence of the defendant unless another attorney has entered an appearance for the defendant. Withdrawal of appearance may be allowed without compliance with the requirements of this rule if the reason for withdrawal is the inability to locate and communicate with the defendant. In such event a warrant shall issue for the arrest of the defendant.

CRIMINAL RULE 3

PRE-TRIAL ORDER AND OMNIBUS HEARING

In all criminal cases set for trial by jury, a pre-trial order shall be entered and an omnibus hearing set. At the omnibus hearing the Court will determine if the parties

contemplate the entry of a plea of guilty by the defendant, either with or without a plea agreement. If there is a plea of guilty, the plea will be entered following the Omnibus Hearing. The Court will not accept a plea agreement after the Omnibus Hearing without a showing of good cause why the plea agreement could not have been reached at or prior to the Omnibus Hearing.

If no plea of guilty is entered, the Court will determine whether any cases with an earlier filing date or cases which the Court has assigned a higher priority remain scheduled for the same trial date. If there are none, then the trial date will stand; otherwise, a new trial date will be set.

CRIMINAL RULE 4

BAIL SCHEDULE

A. **AMOUNTS.** The following amounts shall be the amounts set for bail bonds unless otherwise ordered by the Judge of the Carroll Circuit Court or the Carroll Superior Court:

<u>Class of Offense</u>	<u>Bail Amount</u>
A. Murder	none
B. Habitual Offender	\$50,000.00
C. Class A felony	\$100,000.00
D. Class B felony	\$50,000.00
E. Class C felony	\$10,000.00
F. Class D felony	\$5,000.00
G. Class A misdemeanor	\$2,000.00
H. Class B misdemeanor	\$1,000.00
I. Class C misdemeanor	\$500.00

EXCEPTIONS TO SCHEDULE

B. **MULTIPLE CHARGES.** If an arrest is made on more than one charge and there has been no prior judicial determination of bail, bail must be posted as to each charge. The amounts may be varied or determination stayed until court appearance by oral order of the Judge of either the Carroll Circuit or Superior Court, which oral order may be made by telephone.

C. **DEADLY WEAPON.** For any offense involving the use of or attempted use of a deadly weapon or the infliction of serious bodily injury, the bail shall be increased by the sum of \$5,000 over the regular bond schedule.

D. **RELEASE ON PROMISE TO APPEAR.** The bail schedule shall not apply to cases in which a person may be released upon written promise to appear or the posting of other appropriate security including, but not limited to, the following:

(1.) **Traffic Offenses.** Pursuant to I.C. 9-30-2-5, a resident of Indiana charged with a

misdemeanor regulating use and operation of a motor vehicle other than one listed in I.C. 9-30-2-4 shall be released upon signing a promise to appear. The offenses excepted from this rule by I.C. 9-30-2-4 are as follows: (a) an offense causing or contributing to an accident involving injury or death to any person; (b) a violation of I.C. 9-30-5; and (c) failure to stop in the event of an accident causing death, personal injuries, or damage to property. Residents of states which are members of the nonresident violator agreement, I.C. 9-28-1 et seq shall be treated in the same manner as residents of Indiana. Residents of other states shall be required to provide security as provided in I.C. 9-30-2-5 or, failing to do so, they shall post bail in the amount provided above. Any person refusing to sign a promise to appear shall post bail.

(2.) **Conservation offenses.** Pursuant to I.C. 14-2-9-3, cases of violation of snowmobile and fish and game laws may be dealt with by summons rather than arrest.

E. INTOXICATED PERSONS. If any person is arrested or charged involving intoxication or use of drugs and in the opinion of the Sheriff or his department cannot safely be released because of such condition, the person shall be held until the Sheriff or his department determines that the person would not constitute a danger to himself or others. This provision is subject to the rule that all persons arrested who remain in jail shall be brought into court no later than the next day court is in session.

F. ARREST ON CIVIL PROCESS. This bail schedule applies only to arrest on criminal charges. On civil arrests (body attachments), the person shall be held without bail pending court appearance unless a bail amount is stated on the body attachment. Such bail is to be accepted in cash only and must be posted by the person arrested. The Court will consider the cash bail posted to be the property of the person arrested and subject to attachment.

G. TEN PERCENT CASH. In all misdemeanor cases, unless specific order to the contrary is made by the court when setting bail, the person, if a resident of the State of Indiana, may post cash in the amount of 10% of the bail. The Court approved bond form must be used. If 10% is posted, the paid sum shall be returned to the defendant at the close of the case with the following exceptions:

- (a) 10% administrative fee;
- (b) fine, fees, and costs;
- (c) restitution ordered by the Court; and
- (d) alcohol or drug program fees.

CRIMINAL RULE 5

DISCOVERY

A. DISCOVERY ON REQUEST. In all criminal cases reciprocal pre-trial discovery shall be available to both the State and the defendant, upon request of the opposite party, as follows:

C. STATE DISCLOSURE. The State shall produce, upon request, the following:

1. The names, last known addresses, dates of birth, and social security numbers of persons whom the State may call as witnesses, together with their relevant written or recorded statements, memoranda containing substantially verbatim reports of their oral statements and a list of memoranda reporting or summarizing their oral statements.
2. Any written or recorded statements and the substance of any oral statements made by the accused or by a co-defendant, and a list of witnesses to the making and acknowledgement of such statements.
3. Any reports or statements of experts, made in connection with the particular case, including the results of physical or mental examinations and of scientific tests, experiments or comparisons.
4. Any books, papers, documents, photographs or tangible objects which the prosecuting attorney intends to use in the hearing, or trial or which were obtained from or belong to the accused.
5. Any record of prior criminal convictions which may be used for impeachment of the persons whom the State intends to call as witnesses at the hearing or trial.
6. The terms of any agreements made with co-defendants or other State's witnesses to secure their testimony.
7. Any material or information within the State's possession or control which tends to negate the guilt of the accused as to the offense charged or would tend to reduce his punishment.

D. DEFENDANT DISCLOSURE. The Defendant shall produce, upon request, the following:

1. The person of the accused. Subject to Constitutional limitations the accused shall:
 - a. Appear in a line-up.
 - b. Speak for identification by witnesses for an offense.
 - c. Be fingerprinted.
 - d. Pose for photographs not involving reenactment of a scene.

- e. Try on articles of clothing.
 - f. Permit the taking of samples of his blood, hair, or other materials of his body which involve no unreasonable intrusion.
 - g. Provide a sample of his handwriting.
 - h. Submit to a reasonable physical or medical inspection of his body.
2. Whenever the personal appearance of the accused is required for the foregoing purposes, reasonable notice of the time and place of such appearance shall be given by the State to the accused and his counsel, who shall have a right to be present.
3. Subject to Constitutional limitations defense counsel shall inform the State of any defenses which he intends to make at a hearing or trial and shall furnish the State with the following material and information within his possession and control:
- a. The names, last known addresses, dates of birth, and social security numbers of persons he intends to call as witnesses, excepting the defendant, together with their relevant written or recorded statements, including memoranda reporting or summarizing their oral statements, and any record of prior criminal convictions of such witnesses known to him.
 - b. Any books, papers, documents, photographs, or tangible objects he intends to use as evidence or for impeachment at a hearing or trial.
 - c. Medical, scientific, or expert witness evaluations, statements, reports, or testimony which may be used at a hearing or trial.

E. ADDITIONS, LIMITATIONS, SANCTIONS AND PROTECTIVE ORDERS.

1. Upon a showing of materiality to the preparation of the defense, and if the request is reasonable, the Court, in its discretion, may require disclosure to defense counsel of relevant material and information not covered by this Rule.
2. The Court may deny disclosure authorized by this Rule if it finds that there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from such disclosure which outweighs any usefulness of the disclosure to counsel.
3. Disclosure hereunder shall not be required of legal research or of records, correspondence, reports or memoranda to the extent that they contain the opinions, theories, or conclusions of the State or members of its legal or investigative staffs, or of the defense counsel or his staff.
4. Either side may apply for a protective order for non-disclosure of requested discovery.

5. If, subsequent to compliance, a party discovers additional material or information which is subject to disclosure he shall promptly notify the other party or his counsel of the existence of such additional material, and if the additional material or information is discovered during trial, the Court shall also be notified. 6. Willful violation by counsel of the Rule or an order issued pursuant thereto may subject counsel to appropriate sanctions by the Court.

CRIMINAL RULE 6

SELECTION OF SPECIAL JUDGES

When a change of judge is granted in a felony or misdemeanor case pursuant to Criminal Rule 12(B) or as the result of a recusal by the presiding judge, the case shall be assigned to one of the following judges:

- 1) Linley E. Pearson, Judge of the Clinton Circuit Court
- 2) Kathy R. Smith, Judge of the Clinton Superior Court
- 3) Robert W. Thacker, Judge of the White Circuit Court
- 4) Robert B. Mrzlack, Judge of the White Superior Court

The assignment of judges shall be made in consecutive numerical order, i.e. the first judge listed will be assigned to the first case requiring a special judge; the second judge listed will be assigned the next case requiring a special judge; etc. The next assignment following the assignment of the last judge listed will be the first judge listed, and the selection process will then be repeated.

(Note: The judges listed have consented to exchange services with the judges of the Carroll Circuit Court and the Carroll Superior Court.)

SMALL CLAIM RULE 1

LANDLORD AND TENANT

A. If the defendant has vacated the premises by the time of the hearing on possession, the plaintiff must present evidence of damage to the premises at that time. If the defendant has not vacated by the time of the hearing, the court will set another hearing date to consider the question of damages.

B. The Sheriff will assist a party prevailing on a claim for possession only to the extent of obtaining possession of the premises, and the party will be fully responsible for moving and storage of personal property.

C. It shall be the duty of any party obtaining an order for possession to contact the

Sheriff and make arrangements for assistance in obtaining possession of the involved property.